

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

ADRIANNA THURMAN,

Plaintiff,

v.

ST. LOUIS COUNTY, et al.,

Defendants.

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No. 4:19CV828 RLW

**MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff's Motion for Leave to File Amended Complaint (ECF No. 22) and Defendant Michael Young's Motion for Extension of Time to Respond to Plaintiff's Motion for Leave to File First Amended Complaint (ECF No. 23). For the reasons set forth below, the Court will grant Plaintiff's motion to file an amended complaint and deny Defendant Michael Young's motion for extension of time.

Plaintiff Adrianna Thurman filed this civil rights action under 42 U.S.C. § 1983 on April 5, 2019, seeking declaratory judgment and damages for claims arising out of her incarceration pursuant to a writ of body attachment to compel her cooperation with a genetic paternity test. (ECF No. 1) Plaintiff alleges that her 39 day incarceration beginning when she was 7 months pregnant violated her rights under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution. (*Id.*) Plaintiff's original Complaint lists St. Louis County, Missouri ("St. Louis County"), Jim Buckles ("Buckles"), and Michael Young ("Young") as named Defendants. (*Id.*)

The record shows that all Defendants were served on May 6, 2019. After the Court granted Defendants' motions for additional time to answer, Defendants St. Louis County and

Buckles filed a Motion to Dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, or in the alternative, a Motion for Summary Judgment on June 7, 2019. (ECF No. 17)

Defendant Young filed a Motion to Dismiss pursuant to Rule 12(b)(6) on June 11, 2019. (ECF No. 20) Three days later, on June 14, 2019, Plaintiff filed a Motion for Leave to File Amended Complaint and Memorandum of Law in Support, citing Rule 15(a)(2) of the Federal Rules of Civil Procedure as support. (ECF No. 22) Plaintiff states that the amended complaint adds several new Defendants and additional facts. Also on June 14, 2019, Defendant Young filed a Motion for Extension of Time to Respond to Plaintiff's Motion, arguing that the amended complaint is futile, that Plaintiff filed the motion near the close of business on June 14, 2019, and Young's attorney is scheduled to begin a trial on Monday, June 17, 2019. (ECF No. 23)

Although Plaintiff relies on Fed. R. Civ. P. 15(a)(2), the Court notes that under Rule 15(a)(1), "[a] party may amend its pleading once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1)(B). The record shows that Plaintiff was served with motions to dismiss under Rule 12(b)(6) on June 7 and June 11, 2019. She filed her motion for leave to file an amended complaint on June 14, 2019, well within the 21 days set forth in Rule 15(a)(1)(B). Therefore, the Court finds that Plaintiff may file the attached amended complaint as a matter of course, and the motion for leave will be granted.

In addition, the Court will deny as moot Defendant Young's motion for extension of time to file a response. With respect to the motions to dismiss Plaintiff's Complaint filed by Defendants St. Louis County, Buckles, and Young, these motions are also moot, as they are not responsive to Plaintiff's amended complaint.

Accordingly,

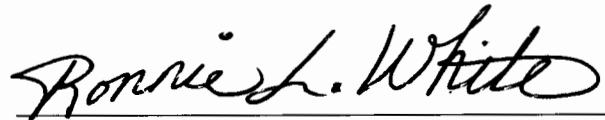
**IT IS HEREBY ORDERED** that Plaintiff's Motion for Leave to File Amended Complaint (ECF No. 22) is **GRANTED**. The Clerk of the Court shall file Attachment 1 to Plaintiff's motion (ECF No. 22-1) as Plaintiff's First Amended Complaint.

**IT IS FURTHER ORDERED** that Defendant Michael Young's Motion for Extension of Time to Respond to Plaintiff's Motion for Leave to File First Amended Complaint (ECF No. 23) is **DENIED** as **MOOT**.

**IT IS FURTHER ORDERED** that the Motion to Dismiss or in the Alternative, Motion for Summary Judgment of Defendants St. Louis County and Jim Buckles in his Official Capacity (ECF No. 17) is **DENIED** as **MOOT**.

**IT IS FINALLY ORDERED** that Defendant Michael Young's Motion to Dismiss Plaintiff's Complaint Pursuant to Rule 12(b) (ECF No. 20) is **DENIED** as **MOOT**.

Dated this 17th day of June, 2019.

  
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**RONNIE L. WHITE**  
**UNITED STATES DISTRICT JUDGE**